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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

## LOK SABHA

The following Bill was introduced in Lok Sabha on the 27th November, 1970:—

BILL No. 119 OF 1970

*A Bill further to amend the Coal Bearing Areas (Acquisition and Development) Act, 1957 and to validate certain acquisitions of land or rights in or over land under the said Act.*

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title

1. This Act may be called the Coal Bearing Areas (Acquisition and Development) (Amendment and Validation) Act, 1970.

Amendment of section 8

20 of 1957.

2. In section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter referred to as the principal Act), in sub-section (2), for the words "submit the case for the decision of the Central Government together with the record of the proceedings held by him and a report containing his recommendations on the objections", the words, brackets and figures "either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government" shall be substituted.

Amendment of section 9.

3. In section 9 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the words "made by it to that effect", the following shall be inserted, namely:—

", and different declarations may be made from time to time in respect of different parcels of any land, or of rights in or over such land, covered by the same notification under sub-section (*1*) of section 7, irrespective of whether one report or different reports has or have been made (wherever required) under sub-section (*2*) of section 8";

(*ii*) for the words "Provided that, where the declaration", the following shall be substituted, namely:—

"Provided that no declaration in respect of any particular land, or rights in or over such land, covered by a notification under sub-section (*1*) of section 7, issued after the commencement of the Coal Bearing Areas (Acquisition and Development) (Amendment and Validation) Act, 1970, shall be made after the expiry of three years from the date of the said notification:

Provided further that, where a declaration";

(*b*) in sub-section (*2*), for the words "The declaration", the words "Every declaration" shall be substituted.

Amendment of section 13.

4. In section 13 of the principal Act, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) In determining the amount of compensation for any land acquired under section 9, any increase to the value of the other land of the person interested, likely to accrue from the use to which the land acquired will be put shall not be taken into consideration.".

Amendment of section 14.

5. In section 14 of the principal Act, after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*8*) The Tribunal, in the proceedings before it, shall have all the powers which a civil court has while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*i*) summoning and enforcing the attendance of any person and examining him on oath;

(*ii*) requiring the discovery and production of any document;

(*iii*) reception of evidence on affidavits;

(*iv*) requisitioning any public record from any court or office; and

(*v*) issuing commissions for examination of witnesses.".

Amendment of section 17.

6. In section 17 of the principal Act, in sub-section (2), for the second proviso, the following provisos shall be substituted, namely:—

"Provided further that every person who claims to be an interested person (whether such person has been admitted to be interested or not) including the person referred to in the preceding proviso shall be entitled to prefer a claim for compensation before the Tribunal:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to prefer any such claim before the Tribunal.".

Insertion of new section 18A.

7. After section 18 of the principal Act, the following section shall be inserted, namely:—

Payment to State Governments in lieu of royalty.

**"18A. Notwithstanding anything contained in this Act, where any land or any rights in or over land belonging to a State Government (other than the rights under a mining lease granted or deemed to have been granted by the State Government to any person) vest in the Central Government under section 10 or in a Government Company under section 11, the Central Government or the Company, as the case may be, may pay to the State Government such sum of money as would have been payable as royalty by a lessee had such land or rights been under a mining lease granted by the State Government.".**

Validation of certain acquisitions.

8. (*1*) Notwithstanding any judgment, decree or order of any court to the contrary,—

(*a*) no acquisition of land or of rights in or over land made or purporting to have been made under the principal Act before the commencement of this Act, and no action taken or thing done (including any order made, agreement entered into or notification published) in connection with such acquisition shall be deemed to be invalid or ever to have become invalid merely on the ground—

(*i*) that one or more competent authorities have performed the functions of competent authority under the principal Act in respect of the land covered by the same notification under sub-section (*1*) of section 7 of the principal Act;

(*ii*) that one or more reports have been made under sub-section (*2*) of section 8 of the principal Act, whether in respect of the entire land covered by the same notification under sub-section (*1*) of section 7 of the principal Act or rights in or over such land, or in respect of different parcels of such land or of rights in or over such land;

(*iii*) that one or more declarations have been made under section 9 of the principal Act in respect of different parcels of the land covered by the same notification under sub-section (*1*) of section 7 of the principal Act or in respect of rights in or over such land;

(*b*) any acquisition in pursuance of any notification issued under sub-section (*1*) of section 7 of the principal Act before the commencement of this Act may be made after such commencement and no such acquisition and no action taken or thing done (including any order made, agreement entered into or notification published) whether before or after such commencement, in connection with such acquisition shall be deemed to be invalid merely on the grounds referred to in clause (*a*) or any of them.

(*2*) Notwithstanding anything contained in clause (*b*) of sub-section (*1*), no declaration under section 9 of the principal Act in respect of any land, or rights in or over such land, which has been notified before the commencement of this Act, under sub-section (*1*) of section 7 of the principal Act, shall be made after the expiry of two years from the commencement of this Act.

**(*3*) Where acquisition of any particular land (not being acquisition of rights in or over such land) covered by a notification under sub-section (*1*) of section 7 of the principal Act, issued before the commencement of this Act, is or has been made in pursuance of any declaration under section 9 of the principal Act, whether made before or after such commencement, and such declaration is or has been made after the expiry of three years from the date of issue of such notification, there shall be paid simple interest, calculated at the rate of six per centum per annum on the market value of such land, as determined under sub-section (*5*) of section 13 of the principal Act, from the date of expiry of the said period of three years to the date of tender of payment of compensation payable for the acquisition of such land:**

Provided that no such interest shall be payable for any period during which the proceedings for the acquisition of any land were held up on account of stay or injunction by order of a court:

Provided further that nothing in this sub-section shall apply to the acquisition of any land where the amount of compensation has been paid to the persons interested before the commencement of this Act.

## STATEMENT OF OBJECTS AND REASONS

The Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the Coal Bearing Areas Act) provides *inter alia* for the acquisition by the Central Government of virgin lands, including underground minerals, or rights in or over such lands. Under the *Explanation* to clause (*a*) of sub-section (5) of section 13, which provides that the value of any minerals lying in the land will not be taken into consideration in determining the market value of any land, no compensation is payable to the State Governments in respect of the underground minerals which also vest in the Central Government when the land is acquired by the Central Government. The State Governments have been representing from time to time that this results in their being deprived of large sums by way of revenue. The Central Government has considered the representations of the State Governments and has decided that the State Governments should be paid purely on an *ex-gratia* basis such sums as they would have been entitled to receive by way of royalty, had mining leases been granted in respect of the areas acquired. It is now proposed to amend the Coal Bearing Areas Act to make such payments obligatory.

2. Sections 4 to 9 of the Coal Bearing Areas Act deal with the procedure for acquiring coal bearing areas under the Act. Briefly stated, the procedure envisages a preliminary notification respecting intention of the Government to prospect for coal on land in any locality, a second notification of the intention of the Government to acquire the whole or any part of the land or any rights in or over the land after satisfying itself that coal is obtainable therein and a declaration, after considering objections to the second notification, that the land or any rights in or over the land should be acquired. This procedure is for all material purposes similar to the procedure provided under the Land Acquisition Act, 1894, as it stood before it was amended in 1967. The Supreme Court had, in *State of Madhya Pradesh* Vs. *Vishnu Prasad Sharma*, AIR 1966 S.C. 1593, held that under the relevant provisions of the Land Acquisition Act, it was not permissible for Government to acquire by stages any land in respect of which it had notified its intention to acquire. The Land Acquisition Act was amended in 1967 to overcome the effect of the decision of the Supreme Court and to render possible acquisition of land by stages as also to validate such acquisitions made in the past. Under the Coal Bearing Areas Act also acquisition of land has been made by stages in several cases in the past and it would be convenient if Government has the power to acquire land by stages because that would enable Government to acquire only so much of the land as it may be in a position to exploit without delay and leave the remaining land with the owner till such time as the Government is in a position to exploit the same. It is, therefore, proposed to amend the Coal Bearing Areas Act on the same lines on which the Land Acquisition (Amendment and Validation) Act, 1967, amended the Land Acquisition Act, 1894 and also to validate past acquisitions of land.

3. It is proposed to avail of the present opportunity to make certain other amendments to remove lacunae disclosed during the actual working of the Coal Bearing Areas Act. These amendments are—

(*a*) for providing (on the same lines as the sixth clause of section 24 of the Land Acquisition Act, 1894) that any increase to the value

of the other land of the owner likely to accrue from the use to which the land acquired will be put shall not be taken into consideration in assessing the compensation payable under section 13 of the Act;

(b) for investing the Tribunal, constituted under section 14 of the Act for determining compensation payable in any case, with powers of a civil court in respect of matters like summoning and enforcing the attendance of any person and examining on oath, etc.; and

(c) for enabling every person who claims to be a person interested in compensation (not being a person who has received the amount otherwise than under protest), to prefer an application before the Tribunal.

4. The Bill seeks to achieve the above objects.

NEW DELHI; NITIRAJ SINGH.
*The 19th August,* 1970.

## PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. C3-5(1)|70-Pt., dated the 6th November, 1970 from Shri Nitiraj Singh Chaudhary, Minister of State in the Ministry of Petroleum and Chemicals and Mines and Metals to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Bill further to amend the Coal Bearing Areas (Acquisition and Development) Act, 1957 and to validate certain acquisitions of land or rights in or over land under the said Act, recommends introduction of the Bill in the Lok Sabha under clause (*1*) of article 117 and its consideration under clause (*3*) of article 117 of the Constitution.

## FINANCIAL MEMORANDUM

Clause 7 of the Coal Bearing Areas (Acquisition and Development) (Amendment and validation) Bill, 1970 envisages payment of royalty to State Government concerned in respect of coal and other minerals removed and despatched from areas not held under any third party rights acquired under the Coal Bearing Areas (Acquisition and Development) Act, 1957. The provision regarding payment of royalty will not, in practice, involve any expenditure from the Consolidated Fund of India as such expenditure would be met from its revenues by the National Coal Development Corporation to whom the acquired land is transferred for exploitation.

2. Clause 8 of the Bill also provides for certain procedural changes on the lines of the Land Acquisition (Amendment and Validation) Act, 1967. In particular, in cases of acquisition of land, where declaration under section 9 is or has been made after the expiry of three years from the date of issue of notification under sub-section (*1*) of section 7, provision has been made for payment of simple interest at 6 per centum per annum on the market value of land acquired, calculated from the date of expiry of three years after the issue of notification to the date of tender of payment of compensation. The Bill, if enacted, will involve a non-recurring expenditure from the Consolidated Fund of India in respect of the payment of interest charges under clause 8(*3*). Presently, there are three such cases in which interest to the extent of Rs. 2.23 lakhs will become payable. There are a few more cases which would involve interest payment but the amount cannot be worked out precisely as it would depend upon the amount of compensation that may become payable under section 13(5) of the principal Act. The compensation and|or interest will initially be paid from the Consolidated Fund of India and later recovered from the National Coal Development Corporation to whom the land has been|will be transferred for exploitation.

3. Apart from the above payments, the Bill does not involve any other recurring or non-recurring expenditure.

S. L. SHAKDHER,
*Secretary.*

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